

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TENTH DAY OF MAY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

and

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO.11051 of 2005

Between:

M/s.Mahalakshmi Enterprises, # 11-62-100, 2nd Floor, Canal Road, Vijayawada-1,
Krishna District rep., by its Proprietor Mr.Velampalli Srinivas, S/o.Velampalli
Suryanarayana, aged 31 years.

...PETITIONER

AND

1. The Additional Commissioner of Commercial Taxes (Legal), O/o.The
Commissioner of Commercial Taxes, Excise & Commercial Taxes
Building, M.G.Road, Nampally, Hyderabad.
2. The Appellate Deputy Commissioner of Commercial Taxes, Vijayawada,
Krishna District.
3. The Assistant Commissioner (CT) LTU-1, Vijayawada, Krishna District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the
circumstances stated in the Affidavit filed herein the High Court may be pleased to
issue an appropriate writ, order or direction particularly in the nature of writ of
mandamus declaring the impugned proceedings of the first respondent in the CCT's
Ref.No.LV(2)/58/2005 dated 31.03.2005 dismissing the stay petition filed by the
petitioner firm for assessment year 2003-2004 as illegal, arbitrary, improper, unjust
and without application of mind as it amounts to collection of tax more than 12% and
that too from two dealers in view of the revision/proceedings issued by the revisional
assessing authorities on the manufacturers levying tax on the alleged rental values

@ 12% in terms of Entry-21 of the 6th Schedule to the APGST Act and consequently directing the third respondent not to take coercive steps for recovery of the tax in dispute for the above mentioned assessment years, pending disposal of the appeal petition on the file of Appellate Deputy Commissioner of Commercial Taxes, Vijayawada.

Counsel for the Petitioner: MR.M.V.J.K.KUMAR

Counsel for the Respondents: Standing Counsel FOR COMMERCIAL TAXES DEPARTMENT

The Court made the following:

THE HON'BLE MR JUSTICE GODA RAGHURAM

And

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO.11051 of 2005

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ORDER: (Per the Hon'ble Mr Justice Goda Raghuram)

The Writ Petition is directed against the proceedings of the first respondent in CCT's.Ref.No.LV (2)/58/2005 dated 31.03.2005, rejecting the application of the petitioner for stay of levy of the disputed tax.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the Commercial Taxes Department.

The Writ Petition is disposed of directing the stay of collection of disputed tax of an amount of Rs.19,04,682/- on the condition that the petitioner deposits 50% of the said amount to the credit of the third respondent within four weeks from today. The amount of the disputed tax already paid by the petitioner if any, should be given credit to. In default of the deposit by the petitioner, the entire amount would become due and recoverable.

(GODA RAGHURAM, J)

(G.YETHIRAJULU, J)

10th May 2005

RRB

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. The Additional Commissioner of Commercial Taxes (Legal), O/o.The Commissioner of Commercial Taxes, Excise & Commercial Taxes Building, M.G.Road, Nampally, Hyderabad.
2. The Appellate Deputy Commissioner of Commercial Taxes, Vijayawada, Krishna District.

3. The Assistant Commissioner (CT) LTU-1, Vijayawada, Krishna District.
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